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Attorney for Defendant
JOHNNIE TANGHA

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JOHNNIE TANGHA et al,)
)
Defendants.)
_____)

No. CR 01-20154 JF

**STIPULATED EXPEDITED MOTION TO
CONTINUE SENTENCING**

[N.D. Cal. Crim. Local Rule 47-3]

Court: Judge Fogel

STIPULATED EXPEDITED MOTION TO CONTINUE

Defendant JOHNNIE TANGHA hereby moves the Court on an expedited basis, pursuant to Local Rule 47-3, for an order continuing the currently scheduled September 15, 2011, sentencing date in this matter to September 22, 2011, at 9:00 a.m. Mr. Tangha so moves on the basis of defense counsel's participation in a jury trial which just ended, and the government's recent reassignment of this matter to a new AUSA. As a result of this reassignment, as well as defense counsel's protracted unavailability due to his participation in the recent six-month trial of

Tangha: Expedited Motion to Continue

1 United States v. Moris Flores et al (the “MS-13 case”), counsel for Mr. Tangha has not yet had
2 an opportunity to discuss Mr. Tangha’s sentencing with counsel for the government, or to prepare
3 a sentencing memorandum for the Court.
4

5 Though this motion is being made on an expedited basis pursuant to the procedure set
6 forth for in the local rules for ex parte motions in accord with Local Rule 47-3(a), and pursuant to
7 the stipulation of Jeffrey Nedrow, Assistant United States Attorney for the Northern District of
8 California.

9 Dated: September 1, 2011.

Respectfully Submitted,

10 /s/ Mark Rosenbush
11

12 MARK ROSENBUSH
13 Attorney for Defendant
JOHNNIE TANGHA

14 **IT IS SO STIPULATED.**

15 Dated: September 1, 2011.

/s/ Jeffrey Nedrow

16 JEFFREY NEDROW
17 Assistant United States Attorney
18

19 **DECLARATION IN SUPPORT OF EXPEDITED MOTION**

20 I, Mark Rosenbush, hereby state:

21 1. I am an attorney duly licensed to practice before this Court. I am the attorney of
22 record for defendant Johnnie Tangha in the above captioned criminal case.

23 2. I recently finished a six month long trial of the case *United States v. Cerna et al*,
24 CR09-0730 WHA (the “MS-13 case”), in this district in San Francisco. As a result of the
25 massive scope of this trial, which was in session every day, I was unable to discuss Mr. Tangha’s
26 sentencing with the counsel for the government by the currently scheduled date, nor was I able to
27
28

1 work on Mr. Tangha's sentencing memorandum.

2 3. Upon contacting the government last week, I learned that the government had not
3 yet assigned a new AUSA to Mr. Tangha's case to replace Shawna Yen, the prosecutor
4 previously assigned to this matter. I was subsequently informed that Mr. Jeffrey Nedrow will
5 now be handling the case for the government.
6

7 3. I have discussed the proposed continuance of the hearing date in this case with
8 Mr. Nedrow, counsel for the government. Counsel for the government informed me that the U.S.
9 Attorney stipulates to the continuance of the sentencing date proposed herein and authorizes me
10 include the government's stipulation in this motion.
11

12 I declare, under penalty of perjury under the laws of the United States, that the foregoing
13 is true to the best of my knowledge and belief. Executed this 1st day of September, 2011, in San
14 Francisco, California.

15 /s/ Mark Rosenbush

16 MARK ROSENBUSH
17 Attorney for Defendant
18 JOHNNIE TANGHA

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 Criminal Local Rule 47-3 states:
21

22 An *ex parte* motion is a motion filed and submitted for immediate determination
23 by the assigned Judge without giving an opposing party the amount of advance
24 notice which is otherwise required by statute, federal rule or local rule. Unless
25 relieved by these local rules or by order of a Judge for good cause shown or unless
26 being filed under seal pursuant to a statute or federal or local rules, a party making
27 an *ex parte* motion shall nevertheless give reasonable advance notice of the
28 motion to an opposing party.

Northern Dist. of Cal. Crim Local. Rules, Rule 47-3(a). Motions to continue are not specifically
authorized under the local rules as motions for which relief may be sought on an expedited basis.

1 Leave of the Court is therefore required before a continuance motion can be submitted and
2 decided pursuant to Rule 47-3. Given the unavailability of defense and government counsel in
3 this matter, and the fact that there is a stipulation to the requested order, Defendant hereby
4 requests that the Court decide this matter on an expedited basis. This motion has been served on
5 the government.
6

7 In deciding whether to grant a defendants' motion to continue, the Court must consider,
8 among other factors, (1) the extent of the defendants' diligence in readying the defense; (2) the
9 likelihood that the requested continuance would satisfy the defendants' needs; (3) the
10 inconvenience to the court, the opposing party, and witnesses; and (4) the extent to which the
11 defendant may be prejudiced by denial of the requested continuance. See *United States v. Tham*,
12 960 F.2d 1391 (9th Cir. 1992).
13

14 In this instance a continuance is required because defense and government counsel have
15 unavailable, and defense counsel has therefore been unable to prepare for Mr. Tangha's
16 sentencing.
17

18 CONCLUSION

19 Pursuant to the above, Defendant Tangha moves the Court to vacate the currently
20 scheduled sentencing date and to continue the matter to September 22, 2011, at 9:00 a.m..

21 Dated: September 1, 2011.

Respectfully submitted,

22 /s/ Mark Rosenbush

23 MARK ROSENBUSH
24 Attorney for Defendant
25 JOHNNIE TANGHA
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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNIE TANGHA et al,

Defendants.

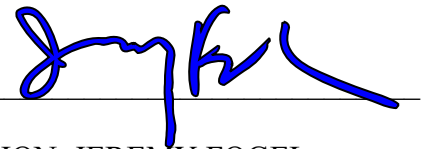
No. CR 01-20154 JF

ORDER [Proposed]
Continuing Sentencing

GOOD CAUSE HAVING BEEN FOUND upon the motion of Defendant Johnnie Tangha, the declaration of counsel Mark Rosenbush, and the stipulation of counsel for the government Jeffrey Nedrow, as reflected in Mr. Rosenbush's declaration;

IT IS HEREBY ORDERED that the sentencing hearing for Mr. Tangha currently scheduled in this case on September 15, 2011, is hereby CONTINUED to **September 22, 2011**, at the hour of **9:00 a.m.**

Dated: 9/8, 2011.



HON. JEREMY FOGEL
U.S. DISTRICT JUDGE